IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No. 7508 of 2007 (O&M)

Date of decision: 14.9.2007

Shamsuddin ... Petitioner

Versus

M/s.Unitec Limited and another ... Respondents

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Present: Mr. A. P. Bhandari, Advocate
for the petitioner.

...

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE AJAI LAMBA

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ADARSH KUMAR GOEL, J

The petitioner is aggrieved by order dated 27.2.2006, Annexure P-5 passed by the Labour Court rejecting the complaint under Section 33-A of the Industrial Disputes Act, 1947 (for short, 'the Act') holding that since proceedings under reference had been terminated prior to alleged violation, there was no violation of service conditions during the pendency of the reference.

Case of the petitioner is that while working as a Driver with the management of respondent no.1, when his services were terminated on 28.2.2002, he raised an industrial dispute which was referred for adjudication. During the pendency of the industrial dispute, a settlement was arrived at but the said settlement was violated by the management.

The petitioner filed a complaint under Section 33-A of the Act which was dismissed by the Labour Court holding that since the proceedings had been terminated prior to settlement itself, the application was not maintainable.

Learned counsel for the petitioner submits that no Award has been passed so far and, thus, the proceedings pending before the Labour Court under reference could not be treated to have been concluded. Though settlement was reached, the settlement was not taken on the record of the Labour Court and the reference was not disposed of in terms of the settlement. There was no order on record concluding the adjudication proceedings under reference.

Though we are unable to hold that there was change of service conditions during the pendency of the reference so as to attract the provisions of Section 33-A of the Act, we make it clear that the petitioner will be at liberty to move the Labour Court to conclude the reference, if the same is still pending.

The writ petition is disposed of.

(Adarsh Kumar Goel)
Judge

(Ajai Lamba)
Judge

September 14, 2007
RS